THE HON'BLE SRI P.S.NARAYANA

WRIT PETITION NO.13778 of 2006

DATED 21.09.2006

Between:
M/s.Prakash Arts, represented
by its Chief Operating Officer
H.V.Surendranath. .. PETITIONER

versus

The Commissioner, Municipal Corporation of
Hyderabad, Tank Bund, Hyderabad and two
others. .. RESPONDENTS

WRIT PETITION NO.13778 of 2006

ORDER:

Heard Sri N.V.Suryanarayana Murthy, learned Senior Counsel

representing the petitioner, Smt.Jyothi Kiran, learned Standing Counsel for respondents 1 and 2 and Sri Vilas Afzalpurkar, learned Senior Counsel representing the 3rd respondent.

2. The Writ Petition is filed praying for a Writ of Mandamus declaring the action of the 1st and 2nd respondents in permitting the 3rd respondent to erect a unipole in the premises bearing municipal No.1-11-222/5, situated at Begumpet, Hyderabad, adjacent to the petitioner's hoarding as illegal, arbitrary and violative of principles of natural justice and consequently direct the 3rd respondent not to obstruct the visibility of the petitioner's hoardings and pass such other suitable orders.

3. An affidavit in elaboration is filed in support of the Writ Petition narrating several details. The respondents 1 and 2 moved WVMP.No.1381 of 2006 to vacate the interim order and an elaborate counter affidavit was filed by respondents 1 and 2 narrating several factual details. Likewise the 3rd respondent filed WVMP.No.1282 of 2006 to vacate the interim order, wherein several factual details had been narrated.

4. This Court made an interim order of status quo in WPMP.No.17147 of 2006, dated 6.7.2006 for a limited period, which is being extended from time to time. In the additional affidavit filed by the writ petitioner it is stated that the respondent granted permission to the petitioner for shifting of hoardings (size 50 x 20) from Rasool Pura junction and Rezimental Bazar to the premises bearing No.1-11-249/1/1, Begumpet, Hyderabad, vide permission letter dated 18.4.2006. In fact the petitioner erected hoarding with wide base for the purpose of structured stability. After filing of the Writ Petition, the 2nd respondent issued a letter dated 18.7.2006 and directed the petitioner to reduce the size of hoarding to the permitted size. Though the intention of the petitioner is not to avoid any advertisement tax to

the Municipal Corporation, with a view to structural stability the petitioner widened its base and also it is categorically stated in reply affidavit that the petitioner is not going to display advertisement on the entire structure. It is also stated that on the advice of the Municipal Corporation of Hyderabad, the petitioner had reduced the size of hoardings by replacing with strong iron angulars to the permitted size. It is stated that even after reduction of hoarding structure also, the 3rd respondent-unipole is obstructing the visibility (major portion facing Airport traffic) of the petitioner's hoarding.

5. In the light of the stand taken in the additional affidavit, several of the factual controversies narrated in detail in the affidavit filed in support of the Writ Petition and the respective counter affidavits filed along with vacate applications need not be considered in elaboration. However, all those factual details also may be taken into consideration in the light of the stand taken by the writ petitioner in the additional affidavit filed before this Court. It is needless to say that these serious factual controversies asserted in the affidavit filed in support of the Writ Petition and also in the counter affidavits and the additional affidavit cannot be properly and effectively decided by the Writ Court.

6. In the peculiar facts and circumstances, this Court is of the opinion that the Writ Petition be disposed of directing the 1st respondent to consider all the aspects involved in the matter, if necessary after giving a hearing to the petitioner and the 3rd respondent and take a decision especially in the light of the stand taken in the additional affidavit that even after the reduced size of the hoarding structure, the Unipole of 3rd respondent is obstructing the visibility (major portion facing Airport traffic) of the petitioner hoarding. This exercise to be made by the 1st respondent as early as possible preferably within a period of two (02) weeks from the date of receipt of a copy of this order. Inasmuch as status quo is being extended from

time to time, till a decision is taken by the 1st respondent in this regard, status quo to be maintained.

7. The Writ Petition is disposed of accordingly. No costs.

21.09.2006

SSR